

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

BRYMON HAMP, JR.

PLAINTIFF

v.

CIVIL ACTION NO. 1:24-cv-00157-TBM-RPM

JANE OR JOHN DOE
SMCI/Medical Provider

DEFENDANT

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION [12] TO DISMISS

This matter is before the Court on *pro se* Plaintiff Brymon Hamp, Jr.'s Motion [12] to Dismiss. Plaintiff filed this Complaint [1] on May 29, 2024, alleging that he was denied adequate medical care at the South Mississippi Correctional Institution ("SMCI") in Leakesville, Mississippi, during the summer of 2023. On July 15, 2024, Plaintiff notified the Court that he had been relocated from SMCI to the East Mississippi Correctional Facility ("EMCF") in Meridian, Mississippi. [10], p. 1. On July 25, 2024, Plaintiff moved the Court to dismiss his lawsuit "as moot without prejudice" because the medical staff at EMCF "has accommodated [his] medical needs so far." [12], p. 2. He also asks the Court "to not charge [the] filing fee." [12], p. 1.

Under Federal Rule of Civil Procedure 41(a)(1)(A)(i), "the plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Because Defendant has not been served, much less answered or filed a dispositive motion, the Court will construe Plaintiff's Motion [12] to Dismiss as a Notice of Voluntary Dismissal and dismiss this civil action without prejudice.

But Plaintiff has offered no argument or authority supporting his request to avoid the assessment of the filing fee. At the onset of this lawsuit, the Court advised Plaintiff that he "will

be obligated to pay the full filing fee of \$350.00 . . . for a civil action,” even if he is granted leave to proceed *in forma pauperis*. [5], p. 3. Under 28 U.S.C. § 1915(b)(1), “if a prisoner brings a civil action . . . in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee” in incremental amounts. The incremental payment process is fully outlined in the Order Setting Payment Schedule, which assessed an initial partial filing fee of \$9.83, followed by “monthly payments of 20 percent of the preceding month’s income credited to [Plaintiff’s] prison account, until the total filing fee of \$350.00 is paid.” [8], p. 2. And Plaintiff acknowledged “that [he is] obligated to pay the full filing fee, even if [he] do[es] not have enough money at this time.” [6], p. 1. Plaintiff’s Motion [12] to Dismiss will be denied insofar as he asks the Court “to not charge [the] filing fee.” [12], p. 1.

IT IS, THEREFORE, ORDERED AND ADJUDGED that *pro se* Plaintiff Brymon Hamp, Jr.’s Motion [12] to Dismiss is **GRANTED IN PART AND DENIED IN PART**. The Clerk of Court is directed to **CLOSE** this case.

THIS, the 20th day of August, 2024.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE